



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,274	12/29/2000	Rachel S. Lieberman	60709-00019	9133

7590 10/19/2006

John S. Beulick  
Armstrong Teasdale LLP  
One Metropolitan Sq., Suite 2600  
St. Louis, MO 63102

EXAMINER

FRENEL, VANEL

ART UNIT PAPER NUMBER

3626

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/752,274	<b>Applicant(s)</b> LIEBERMAN ET AL.	
	<b>Examiner</b> Vanel Frenel	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31, 36-38 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31, 36-38 and 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Notice to Applicant

1. This communication is in response to the Amendment filed on 7/25/06. Claims 1, 13, 36 and 40 have been amended. Claims 32-35 and 39 have been cancelled. Claims 1-31, 36-38 and 40-43 are pending

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-31, 36-38 and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimse et al (6,269,355), (Computer-guided FMLA administration by Gary Meyer; HR Magazine. Alexandria: May 1997. Vol.42, Iss.5; pg.45, 3pgs), Deborah Kweiler, Absence-Mgr.com Upgraded to Account for Family Medical Leave Act Requirements, Business Wire, Feb., 16, 2000 in view of Khan et al (6,401,079 ) and further in view of Fritschen et al (2002/0133376).

(A) Claim 1 has been amended to recite the limitations of: "entering the medical data directly into the medical certification form by the medical provider via the second client system", "entered by the requester" and "entered by the medical provider".

Grimse, Gary, Deborah do not explicitly disclose that the method having "entering the medical data directly into the medical certification form by the medical

provider via the second client system”, “entered by the requester” and “entered by the medical provider”.

However, this feature is known in the art, as evidenced by Fritschen. In particular, Fritschen suggests that the method having “entering the medical data directly into the medical certification form by the medical provider via the second client system”, “entered by the requester” and “entered by the medical provider” (See Fritschen, Page 1, Paragraphs 0008-0009).

It would have been obvious to one of ordinary skill in the art at the time of invention to have included the feature of Fritschen within the collective teachings of Grimse, Gary and Deborah with the motivation of providing a network which includes one or more databases that initially store DME information regarding a patient and a certificate of medical necessity (See Fritschen, Page 1, Paragraph 0008).

(B) Claim 13 has been amended to recite the limitations of: “containing medical data directly entered into the medical certification form by the medical provider”, “entered by the requester” and “medical provider”.

Grimse, Gary, Deborah do not explicitly disclose that the method having “containing medical data directly entered into the medical certification form by the medical provider”, “entered by the requester” and “medical provider”.

However, this feature is known in the art, as evidenced by Fritschen. In particular, Fritschen suggests that the method having “containing medical data directly

entered into the medical certification form by the medical provider", "entered by the requester" and "medical provider" (See Fritschen, Page 1, Paragraphs 0008-0009).

It would have been obvious to one of ordinary skill in the art at the time of invention to have included the feature of Fritschen within the collective teachings of Grimse, Gary and Deborah with the motivation of providing a network which includes one or more databases that initially store DME information regarding a patient and a certificate of medical necessity (See Fritschen, Page 1, Paragraph 0008).

(C) Claim 36 has been amended to recite the limitations of: "means for entering the medical data directly into the medical certification form by the medical provider via second client system", "entered by the requester" and "entered by the medical provider".

Grimse, Gary, Deborah do not explicitly disclose that the apparatus having "means for entering the medical data directly into the medical certification form by the medical provider via second client system", "entered by the requester" and "entered by the medical provider".

However, this feature is known in the art, as evidenced by Fritschen. In particular, Fritschen suggests that the apparatus having "means for entering the medical data directly into the medical certification form by the medical provider via second client system", "entered by the requester" and "entered by the medical provider" (See Fritschen, Page 1, Paragraphs 0008-0009).

It would have been obvious to one of ordinary skill in the art at the time of invention to have included the feature of Fritschen within the collective teachings of

Grimse, Gary and Deborah with the motivation of providing a network which includes one or more databases that initially store DME information regarding a patient and a certificate of medical necessity (See Fritschen, Page 1, Paragraph 0008).

(D) Claim 40 has been amended to recite the limitations of: "receives the medical data entered directly into the medical certification form by the medical provider via the second client system", entered by the requester", "entered by the medical provider".

Grimse, Gary, Deborah do not explicitly disclose that the apparatus having "receives the medical data entered directly into the medical certification form by the medical provider via the second client system", entered by the requester", "entered by the medical provider".

However, this feature is known in the art, as evidenced by Fritschen. In particular, Fritschen suggests "receives the medical data entered directly into the medical certification form by the medical provider via the second client system", entered by the requester", "entered by the medical provider" (See Fritschen, Page 1, Paragraphs 0008-0009).

It would have been obvious to one of ordinary skill in the art at the time of invention to have included the feature of Fritschen within the collective teachings of Grimse, Gary and Deborah with the motivation of providing a network which includes one or more databases that initially store DME information regarding a patient and a certificate of medical necessity (See Fritschen, Page 1, Paragraph 0008).

(E) Claims 2-12, 14-31, 37-38 and 41-43 have not been amended are therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

***Response to Arguments***

4. Applicant's arguments filed on 7/25/06 with respect to claims 1, 13, 36 and 40 have been considered but are moot in view of the new ground(s) of rejection and the remaining claims 2-12, 14-31, 37-38 and 41-43 which have not been amended are therefore rejected for the same reasons given in the previous Office Action, and incorporated herein.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches system and method for electronic archiving and retrieval of medical documents (2002/0007287) and medical consultation management system (6,256,613).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Application/Control Number: 09/752,274

Art Unit: 3626

V.F

V.F

October 13, 2006

Page 8

Lynda Jasmin. 10/16/06  
Primary Examiner